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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

JIAYU CUI,

Plaintiff and Respondent,

v.

KEN LIANG,

Defendant and Appellant.

B288930

(Los Angeles County
Super. Ct. No. BC587140)

APPEAL from a judgment of the Superior Court of Los Angeles County, Frederick C. Shaller, Judge. Affirmed.

Ken Liang, in pro. per., for Defendant and Appellant.

Law Offices of George L. Young and Steven L. Sugars, for Plaintiff and Respondent.

An impoverished appellate record blocks our access to the merits. We affirm.

This much is clear from the pleadings. Jiayu Cui sued Ken Liang for scamming her out of about \$600,000. Cui's complaint alleges she lived in China and sought U.S. immigration papers. In 2012, Cui met Liang and Liang's partner Wei Li. Cui gave Liang and Li about \$600,000 to get green cards for Cui and her husband. After getting the money, Liang and Li stopped communicating with Cui. In 2015, the State Bar of California suspended Liang's license to practice law on account of his felony convictions. Cui sued Liang and Li for fraud, breach of contract, conversion, and breach of fiduciary duty.

Li defaulted. Liang appeared, represented himself, and suffered defeat at a trial by jury in late 2017. The judgment against Liang and Li is for \$600,000. The judgment incorporates the jury's 22-page special verdict form. The verdict form recounts that Liang defrauded Cui, breached his contract with her, converted Cui's money to his own use, and breached his fiduciary duty to her.

Liang now appeals but omits a trial transcript. He likewise omits any record showing he raised his appellate issues in the trial court. This is forfeiture.

For instance, Liang's main claim is Cui changed theories in the middle of trial. Nothing in this record shows this actually happened. Nothing in the record shows that, if it did happen, Liang preserved the issue by objecting. (Cf. *Hernandez v. California Hospital Medical Center* (2000) 78 Cal.App.4th 498, 502 ("Without respondent's motion to strike, plaintiff's opposition, and the court's order, we cannot review the basis of the court's decision. Plaintiff has failed to carry his burden on this ruling.").)

If Cui did change theories and Liang did object, the standard response would be to move to amend pleading to conform to

proof. Liang's deficient record offers no clue as to whether Liang objected, whether Cui made this responsive motion, whether Liang opposed it, or how the trial court ruled. (Cf. Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2018) ¶ 4:3.1, p. 4. ("Appellant cannot obtain reversal of a trial court order on the basis of abuse of discretion when there is no record explaining what occurred at the underlying hearing or the trial court's reasoning.").)

Liang also argues his contract with Cui did not permit a full refund of attorney fees. Of the many flaws in this argument, the first is that it ignores the jury's fraud, conversion, and fiduciary duty verdicts against Liang. Each is for \$600,000. Each is independent support for the judgment and each moots any possible flaw in a contract theory.

DISPOSITION

The judgment is affirmed. Cui is entitled to costs.

WILEY, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.